

ENTERED

February 26, 2019

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SHEROLYN A. FRAZIER,

Plaintiff,

v.

PORTFOLIO RECOVERY
ASSOCIATES LLC,

Defendant.

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Civil Action No. H-18-3916

ORDER

Pending before the Court is Defendant Portfolio Recovery Associates LLC's Motion to Dismiss Pursuant to Rule 12(b)(6) (Document No. 8). Having considered the motion, submissions, and applicable law, the Court determines the motion should be denied without prejudice.

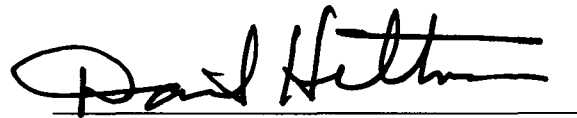
Defendant moves for dismissal of Plaintiff's complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim. Federal Rule of Civil Procedure 8 requires that a pleading contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). The Court has reviewed Plaintiff's complaint and finds that at least some of Plaintiff's claims do not meet the pleading requirements set forth in Rule 8. However, courts generally allow one chance to amend a deficient pleading before dismissing with prejudice. *Great Plains Trust Co. v. Morgan Stanley Dean Witter & Co.*, 313 F.3d

305, 329 (5th Cir. 2002). Therefore, Plaintiff is granted leave to amend the complaint to respond to the issues raised by the motion to dismiss and to comply with Rule 8. Accordingly, the Court hereby

ORDERS that Defendant Portfolio Recovery Associates LLC's Motion to Dismiss Pursuant to Rule 12(b)(6) (Document No. 8) is **DENIED WITHOUT PREJUDICE**. The Court further

ORDERS that Plaintiff shall file an amended complaint that is compliant with Rule 8 within twenty-one days from the date of this Order. Failure to file an amended complaint within twenty-one days will result in dismissal of Plaintiff's case without further notice.

SIGNED at Houston, Texas, on this 25 day of February, 2019.

A handwritten signature in black ink, appearing to read "David Hittner", is written over a horizontal line.

DAVID HITTNER
United States District Judge